



Governor Terry E. Branstad
Lt. Governor Kim Reynolds
San Wong, Director

PUBLIC SAFETY ADVISORY BOARD MINUTES OF REGULAR MEETING

**Iowa State Capitol Building
1007 East Grand Avenue, (Senate) Room 22
Des Moines, IA**

September 11, 2013

Present: Tom Ferguson, Chair; Mardi Allen; Trisha Barto; Romonda Belcher; Jason Carlstrom; Kim Cheeks; DeAnn Decker for Kathy Stone; Stephanie Fawkes-Lee; Kurt Swaim for Sam Langholz; Michelle Leonard; Amber Markham; Hon. Jeffrey Neary; Lettie Prell; Sherri Soich; Tom Walton; Steve Lukan for Dale Woolery

Absent: Paul Fitzgerald; John Spinks

Ex Officio: Sen. Robert Hogg; Rep. Mary Wolfe

Staff: Paul Stageberg; Terry Hudik; Sarah Rabey; Julie Rinker; Lanette Watson

Others: Jennifer Acton; Jean Basinger; Rita Bettis; Cathy Engel; JoAnn Finkenbinder; Bill Freeland; Dennis Hart; Kathy Herman; Anna Hyatt-Crozier; Latrice Lacey; Beth Lenstra; Joe McEniry; Marty Ryan

I. Call to Order, Welcome, and Introductions

Tom Ferguson, Chair, called the meeting to order at 11:45 a.m. A quorum was present.

II. Approval of Minutes—May 29, 2013

Mardi Allen moved to approve the minutes from the May meeting, seconded by DeAnn Decker.

Stephanie Fawkes-Lee asked if the joint meeting with the Sex Offender Research Council was held as was referenced in the minutes. Stageberg responded that a meeting had not yet been scheduled.

There was no further discussion. The motion carried unanimously.

III. Habitual Offenders in Possession of Firearms – age of prior felony convictions

Terry Hudik presented preliminary findings regarding “Certain Characteristics of Persons Eligible to be Charged with Being a Prohibited Person in Possession of a Firearm in Iowa”. The information had been requested at a previous meeting. The findings indicate that of those in the study group, almost half were arrested within five years of the most recent disqualifying conviction. Almost 8 in 10 of these offenders were arrested within ten years of the disqualifying conviction. The report will be emailed to members.

Division of Criminal and Juvenile Justice Planning

IV. “Analysis of the use of 70% Mandatory Minimum Sentences in Iowa” Report

Stageberg stated that the report has been under development for the last three years, worked on as time allowed. Sarah Rabey has assisted with the project.

A subcommittee met in August to review the draft report. The ‘preface’ and ‘policy’ sections are the result of comments received. Robbery is the primary focus of the report because it is one of the largest contributors of minority overrepresentation in prison. The study did not find bias in the system.

Stageberg did not expect approval of the report at this time, but asked that the Board review the recommended options listed on page 7 of the draft report and either adopt or develop alternative recommendations.

Stephanie Fawkes-Lee voiced concerns regarding a lack of discussion by the subcommittee and that the meeting was not open to the public. Ferguson responded that the subcommittee members volunteered to serve during the last meeting and no one was prevented from participating. From an open meeting inquiry by Fawkes-Lee, Stageberg found there was no requirement because a quorum of members did not participate. Ferguson further stated that the purpose of today’s agenda item was for Board discussion in an open meeting format.

Overall, discussion centered on:

- whether changes should be retroactive to include those already serving 70% sentences,
- consideration should be given to the appellate process when crafting recommendations,
- there is a need for more ‘discretion’ by prosecution, judges and Board of Parole when considering individual cases and appropriate sentences,
- a recommendation could include that judges acknowledge why a particular sentence is appropriate for the individual when imposing, waiving, or reducing mandatory sentences,
- risk assessments would be an important part of the sentencing, rehabilitation, and parole/release processes.

Suggestions included:

- graduated sentences based on the individual, offense, victim, and/or nature of the crime,
- the charge should remain a forcible felony,
- report should include: 1) data which demonstrates whether the current mandatory minimum effectively reduces crime/recidivism and 2) cost/benefit information,
- there should be a strong consensus amongst Board members when proposing the recommendations.

There was consensus:

- no members were in favor of keeping the current mandatory minimum legislation as it pertains to robbery,
- to keep the recommendation to robbery 1st and 2nd only (not other 70% crimes),
- the ability to exercise discretion should be made available to prosecutors, judges, and the Board of Parole,
- it may be helpful to list the pros/cons of each recommendation,
- the charge should remain a forcible felony.

Board members will email suggestions to Stageberg by October 15. The report will be further reviewed and discussed at the next meeting.

[1:03 p.m. Steve Lukan joined, Michelle Leonard departed the meeting]

V. Sex Offender/Kidnapping Research – Update

Stageberg, Rabey, and Lanette Watson reviewed the draft “Analysis of Child Kidnapping in Iowa” report. The study found that overall, child kidnapping is rare. Kidnapping can be categorized into familial and non-familial abductions. The age of the child can play a role in vulnerability and victimization. Abductors are primarily male.

Stageberg reviewed findings specific to offender Michael Klunder, including a timeline of Klunder’s offenses, criminal justice movements, and legislative changes. In reviewing Klunder’s incarceration and release, it is apparent that concerns by the judge and Board of Parole delayed his release until the expiration of his sentence. Klunder’s prior kidnapping offenses did not fit the definition of kidnapping 1st or 2nd. Special sentence legislation enacted did not cover kidnapping 3rd, and therefore, did not require further supervision of Klunder. Legislative changes enacted thus far would not have affected the outcome of Klunder’s final offense in the kidnapping and murder of a 15-year old girl.

Possible recommendations could include redefining kidnapping statutes and applying special sentence supervision to other crimes having a sexual component.

Discussion included:

- Walton asked about civil commitment given Klunder’s criminal history and changes in law. Ferguson responded that Klunder wouldn’t qualify based on the convictions being separate instances and the charges were pled to a lesser offense.
- Ferguson suggested that the Board could recommend the Sex Offender Research Council amend sex abuse 2nd to include kidnapping of a child under a specific age or age range.
- Watson noted there were only 17 child kidnappings found over the course of the ten years studied. The vast majority of kidnappings involved adults. However, there were children present during the kidnapping of their mothers in a number of cases.
- Fawkes-Lee thought it was important to include why Klunder was not referred to Cherokee. Ferguson responded that historically there has to be two separate instances of a sex act to be classified as a violent sexual predator.

[2:12 p.m. Hogg departed the meeting]

Stageberg requested that any comments or suggestions be sent to him by October 15. The report will be discussed at the November meeting.

VI. Review of Issues for December, 2013 Report

- a. Mandatory Minimums for Drug Offenders**
- b. Modifying penalties for powder and crack cocaine**
- c. Transitioning Youth**
- d. Juvenile Waivers to Adult Court**
- e. Council of State Governments justice reinvestment**
- f. Results First cost/benefit model**

Rita Bettis, American Civil Liberties Union of Iowa, presented information contained in a research article entitled "Ending Mass Incarceration". She voiced ACLU concerns regarding the nationwide efforts by the Council of State Governments and underscored that the work of the Pew-McArthur Results First Project was not a concern. The ACLU believes that prison populations can be reduced through sentencing changes and reinvestment in certain programs. She urged the Board not to encourage the Council of State Governments to come to Iowa.

Discussion centered on the fact that the Board did not support taking a position, but had accomplished its goals by mentioning it in last year's legislative report.

Stephanie Fawkes-Lee moved to remove item "e. Council of State Governments justice reinvestment" from the upcoming legislative report, seconded by Judge Neary. The motion was unanimously approved.

Lettie Prell suggested revisiting mandatory minimums for drug offenders. Ferguson commented that in most cases it is not imposed for first-time offenders unless it is meth-related.

Comments should be sent to Stageberg by October 15.

VII. Other Matters Arising

No other matters were presented to the Board.

VIII. Adjournment

Sherri Soich moved to adjourn, seconded by Jason Carlstrom. The meeting adjourned at 2:50 p.m.

Respectfully submitted,
Julie Rinker
Administrative Secretary
Div. of Criminal & Juvenile Justice Planning
Iowa Department of Human Rights